IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION

ERIC D. GARNER, individually	§
	§
Plaintiff,	§
	§
V.	§ Civil Action No. 4:12-CV-00713
	§
JOSEPH CORY HOLDINGS, LLC	§
D/B/A JOSEPH CORY COMPANIES	§
& CORY HOME DELIVERY	§
SERVICE,	§
	§
Defendant.	\$

ROD B. KHAVARI'S MOTION TO WITHDRAW AS COUNSEL OF RECORD

TO THE HONORABLE OF SAID COURT:

NOW COMES, Rod B. Khavari, of Khavari & Moghadassi, Attorneys at Law, P.C. (hereinafter "K&M"), attorney of record for Plaintiff, Eric D. Garner (hereinafter referred to as "Garner"), and files this, his Motion to Withdraw and, in support thereof, would show to the Court as follows:

- 1. This request is being made on the ground that Mr. Garner and K&M are unable to effectively communicate in a manner consistent with good attorney-client relations. Specifically, there is a disagreement between Mr. Garner and K&M as to how to proceed with the lawsuit pending before this Honorable Court.
- 2. When an attorney withdraws without the client's consent, the attorney must show that the withdrawal is for good cause and will not disrupt the lawsuit.¹

 $^{^{1}}$ Broughten v. Voss, 634 F.2d 880, 882-83 (5th Cir.1981); see FTC v. Intellipay, Inc., 828 F.Supp. 33, 34 (S.D.Tex.1993).

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3. Pursuant to the Scheduling Order issued by this Honorable Court, this matter

"will not be set for trial until it is clear to the Court that the discovery process and the

consideration of any dispositive motions have progressed sufficiently to allow a reasonable

assessment by the parties and the Court of the time needed for trial and the time the parties need

to complete preparation for trial."²

4. The following deadlines are in the near future: (i) Deadline to file any motions

for leave to amend pleadings no later than August 31, 2013; (ii) Deadline to file any pretrial and

dispositive motions, except for limine motions is September 2, 2013; and (iii) Deadline to

conduct discovery is September 30, 2013.

5. K&M files this, its' Motion to Withdraw pursuant to Local Rule 83.12. The

name, address, and telephone number of Eric D. Garner is as follows:

Eric D. Garner 232 Georgian Road Fort Worth, Texas 76134

Tel: 682-438-0601

6. The undersigned counsel and Plaintiff have spoken at length on at least four (4)

separate occasions regarding the filing of this motion. The undersigned counsel and Plaintiff

have met in person and held telephone conferences regarding the matters set forth herein. We

have also communicated regarding the matters set forth herein through written correspondence.

Despite these discussions and exchanges in correspondence, Plaintiff opposes the filing of this

motion.

7. This withdrawal is for good cause and will not disrupt the lawsuit.

² Court's Docket, Document 12 - Initial Scheduling Order, p.5.

ROD B. KHAVARI'S MOTION TO WITHDRAW AS COUNSEL OF RECORD PAGE 2 OF $\boldsymbol{3}$

PRAYER

WHEREFORE, PREMISES CONSIDERED, Rod B. Khavari of Khavari & Moghadassi, Attorneys at Law ask this Honorable Court to grant his motion to withdraw as counsel of record for Plaintiff, Eric D. Garner.

Respectfully submitted,

KHAVARI & MOGHADASSI ATTORNEYS AT LAW, P.C.

By: /s/ Rod B. Khavari
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Attorney for Plaintiff

CERTIFICATE OF CONFERENCE

On the 31st day of July 2013, I contacted and conferenced with John Greene, counsel for Defendant. Mr. Greene was unopposed to the filing of this motion and relief sought therein.

/s/ Rod B. Khavari Rod B. Khavari

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was filed electronically in compliance with Local Rule 5.1 on August 8, 2013, and was thus served on all counsel who have consented to electronic service. All other counsel of record who have not consented to such service, if any, will be served a true and correct copy of the foregoing instrument in compliance with Rule 5 of the Federal Rules of Civil Procedure on August 8, 2013.

/s/ Rod B. Khavari Rod B. Khavari